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May 24, 1996

EX PARTE PRESENTATION FILED

**VIA HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

RECEIVED  
MAY 28 1996  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Ex Parte Presentation in CC Docket 96-45

Dear Mr. Secretary:

Pursuant to 47 C.F.R. § 1.1206, the National School Boards Association (the "NSBA"), the American Library Association (the "ALA"), the National Education Association (the "NEA"), the Council of Chief State School Officers (the "CCSO"), the National Association of Independent Schools (the "NAIS"), the National Association of Secondary School Principals (the "NASSP"); the American Federation of Teachers, AFL-CIO (the "AFT"), the American Association of School Administrators (the "AASP"), the Council for Educational Development and Research ("CeDAR") and the National Association of State Boards of Education (the "NASBE") (jointly, the "School and Library Coalition") through undersigned counsel, submit this original and one copy of a letter disclosing a written and oral ex parte presentation in the above-captioned proceeding.

On May 24, 1996, the following individuals conferred in person and by telephone with certain members of the Commission and Joint Board staff on behalf of the School and Library Coalition: Michelle Richards of the NSBA; Lynne Bradley and Andrew Magpantay of the ALA; Carolyn Breedlove of the NEA, Frank Withrow of the CCSO; Jefferson G. Burnett of the NAIS; Stephen Yurek of the NASSP; Mary Cross of the AFT; Kari Arfstrom of the AASP; Dena Stoner of CeDAR; Ben Lonie of the NASBE; and Nicholas P. Miller and Matthew C. Ames of Miller, Canfield, Paddock and Stone, P.L.C.

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**MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.**

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The Commission and Joint Board staff members present were: Eileen Benner, Ira Fishman, Debra M. Kriete, Samuel Loudenslager, and Mark Nadel.

The meeting dealt with the School and Library Coalitions' proposals regarding the implementation of Section 254(h) of the Communications Act, as added by the Telecommunications Act of 1996, including matters set forth in the attached written presentation of the School and Library Coalition.

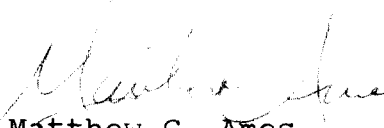
Copies of the attached written presentation were given to all of the Commission and Joint Board staff named above. Commission staff members were also given a compilation of formal comments previously filed with the Commission by the School and Library Coalition.

Please contact the undersigned with any questions.

Very truly yours,

**MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.**

By

  
Matthew C. Ames

Enclosures

cc: Ms. Eileen Benner  
Mr. Ira Fishman  
Ms. Debra M. Kriete  
Mr. Samuel Loudenslager  
Mr. Mark Nadel

## **Questions and Answers on the Education and Library Coalition Proposal to Implement Universal Service for Schools and Libraries**

**Q: What level of services should be available for discounts?**

**A:** Schools and libraries must be able to select the most appropriate services that are practical and cost-effective for their individual educational goals. Therefore, services eligible for discounts should include the broadest range of services possible, up to and including the most advanced services now being used by schools anywhere in the country. For ease of administration, we propose that if a service is commercially available it should be presumed to be available at a discount. This approach will give schools access to interactive, voice, data, and video transmission in every classroom. Discounts should be available for both the start-up and on-going costs of providing connections to schools, classrooms and libraries. No single service or technology should be mandated.

**Q: Will all schools and libraries require high-end services?**

**A:** No. First, this proposal calls for a partnership with schools, libraries and industry in which schools and libraries make serious investments. The more advanced services will carry a higher price tag even with a discount, so schools and libraries will request only the services that match their needs. Second, there is no "one size fits all" technology for schools and libraries. Local school districts across the country are at very different stages of readiness to utilize learning technology. The telecommunications requirements of a science magnet school may be different from a primary school. Third, schools and libraries may not be able to take advantage of services until they deal with other infrastructure problems and issues. Therefore, having a broad range of services will encourage a gradual deployment of telecommunications services nationwide, containing the cost to the universal service fund.

**Q: How would a discount work?**

**A:** There are two elements of this program: (1) installation; and (2) on-going service costs. The discount should be based upon a national benchmark designed to represent a truly competitive price. This competitive price should then be discounted so that it is affordable for schools and libraries. We have suggested that such a formula be the price at which 95 percent of all schools would be able to pay for the service. In addition, there should be an additional safety-net discount for the poorest schools and libraries.

**Q: What will be the annual cost to the Universal Service Fund?**

**A:** There have been several estimates of costs. The "KickStart" report done by the National Information Infrastructure Task Force has projected several different models. Estimated costs for T-1 service to the classroom would roughly be \$1.7 billion per year, not including installation costs. However, cost estimates are difficult to make because of the broad range of services likely to be purchased, the increase of competition, and changing technology. Most importantly, the coalition proposal minimizes the cost to the Universal Service Fund because schools and libraries will be making an investment, and the discount is not taken off the "business rate," or other highly marked-up prices, but off the best competitive rate.

**Q: Should there be a credit or voucher system to the states?**

**A:** No. Several approaches have been proposed to provide a fixed amount to the states. The states would then distribute funds or vouchers based on a variety of proposed formulas to school districts after the districts meet certain requirements. There are numerous problems with these approaches:

- A. They add an unnecessary degree of complexity in determining who is eligible for a discounted rate.
- B. They run counter to the law which says that payment equal to the discount is to be made directly to the carrier from the universal service fund -- not to the school as a grant or voucher.
- C. They would likely create new bureaucratic requirements on school districts that may even necessitate the hiring of additional personnel to handle grant requests.
- D. The credit or voucher system would set a cap on universal service for schools and libraries. While it is to the advantage of all concerned that the Universal Service Fund does not expand beyond reasonable bounds, these plans do not meet the intent of the law, which is to provide "universal service" -- that means service to all schools and libraries, not just to some.

**Q: Should there be a state-level approval process before the discount is available?**

**A:** The legislation calls for the service to be provided upon a "bona fide request." As such, the school district or library should be able to obtain services under their normal procurement procedure. Eligibility for a discount should not require a separate federal or state approval. Furthermore, many states are operating under state learning technology plans, and most schools have similar plans that are in accordance with their state technology plans. In states where there is an aggregated regional or statewide purchase plan, local schools already are working as part of the statewide plan. These plans call for staff development, computer hardware and software purchases, and the creation of digital libraries. Because this is a partnership arrangement in which schools and libraries are making a real investment even with a discount, schools and libraries will go through a comprehensive planning and budget process that is accountable to their communities. Injecting additional requirements runs counter to the Act.

**Q: How would the coalition proposal affect competition?**

**A:** This proposal is designed to maximize competition. It encourages a range of providers of all sizes and using all technologies to bid for school and library services. For instance, service providers would bid at the local level, knowing that their costs would be recovered. This would promote the growth of alternative service providers of all kinds because there would be many opportunities for bidding, and the lowest-cost provider in a particular situation would benefit from submitting the lowest bid possible. Allowing a broad range of services, instead of a handful that a few providers might soon dominate, will also enhance competition.

**Q: Should aggregation and pooling of demand be allowed?**

**A:** Yes. Schools and libraries have formed alliances that allow them to aggregate their purchasing power. By replacing small, individual, relatively unattractive customers with larger and thus more lucrative clients, aggregation increases the number of bidders willing to serve an area. The Joint Board should allow pooling of demand through liberal aggregation rules. For instance, if a library and school district form a local education net, local government agencies or colleges should be able have access to it. As written, the law would allow eligible institutions to recover the cost of allowing other parties to use the network for educational purposes. This should not fall under the prohibition on “reselling” discounted services, rather it should be embraced as an additional way to keep costs down

**Q: Can schools and libraries reprioritize their budgets to pay for these services at business rates without discounts?**

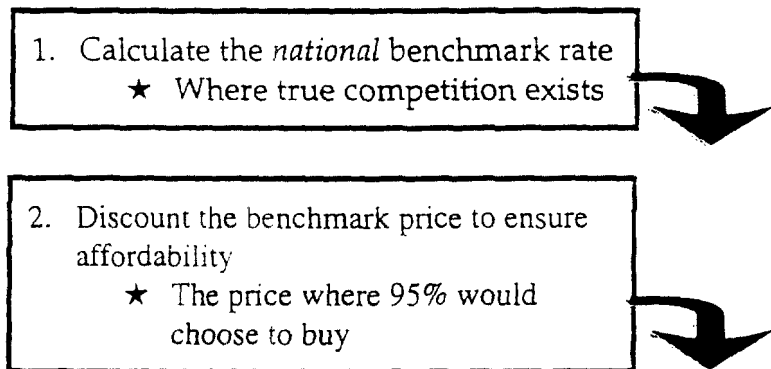
**A:** No. Schools and libraries are experiencing a three-way squeeze on budgets right now, and most are not fiscally able to pay business rates. In schools, there is a massive growth in the school-age population at the same time that many schools are seeing shrinking state and local education budgets. Congress clearly recognized both the fiscal realities facing schools and libraries and the necessity of ensuring that they have affordable access to technology.

# How the Discount Plan Works

*Schools Pay the Lowest of:*

- (1) the local bid or current service price
- (2) the lowest contract price in the local market
- (3) a discounted benchmark price

*To Calculate the Discounted Benchmark Price:*



= Discounted Benchmark Price

*Low Income Areas Receive Further Discount:* Schools and Libraries in high-poverty areas have "safety-net" discount.

*The Universal Service Fund Pays Provider:* The difference between the 95% discounted price and the national benchmark rate would be reimbursed from the Universal Service Fund.